

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

FILED
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U.S. DISTRICT COURT E.D.N.Y.

★ AUG 10 2011 ★

BROOKLYN OFFICE

GURBAX SINGH, ,

Not For Print or Electronic Publication

Petitioner,

OPINION AND ORDER

- against -

Civil No. 11 1410 (ARR)

UNITED STATES OF AMERICA,

Defendant.

X

ROSS, United States District Judge:

Petitioner, Gurbax Singh, seeks a writ of mandamus to compel the United States to take action to prevent his deportation by recommending to the Department of Homeland Security that he be given an S Visa Classification. His petition relies upon a provision in his plea and cooperation agreement with the Office of the United States Attorney for the Eastern District of New York (the "Office") in a related criminal case, United States v. Singh, 06-CR-108(CPS). Specifically, and as quoted in his petition, he seeks to require the United States to grant him the noted relief pursuant to the provision of the agreement that states: "If the defendant requests, and in the Office's judgment the request is reasonable, the Office will recommend to the Department of Homeland Security that the defendant ... be issued an S Visa Classification ..." (emphasis added). In response to the petition, the Office has notified the court that it "has reviewed Petitioner's case, and has determined that Singh's request to not be deported or for an S Visa Classification is not reasonable. Therefore, in accordance with its representation in the cooperation agreement, the Office declines to make such a recommendation to the Department of

Homeland Security.”

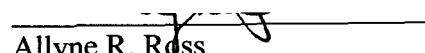
As the language of the agreement indisputably establishes, it is within the exclusive discretion of the Office to determine whether the requested relief is “reasonable”. Petitioner has cited no factual circumstances or legal authority warranting the conversion of an explicitly discretionary determination into a mandatory obligation.

The petition is therefore denied. The Clerk of Court is directed to enter judgment accordingly.¹

SO ORDERED.

Dated: Brooklyn, New York
August 10, 2011

/Signed by Judge Ross/


Allyne R. Ross
United States District Judge

¹ In view of this disposition, petitioner’s motion for a default judgment is denied as moot.

COPIES WERE FORWARDED TO:

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